

IC 34-28

**ARTICLE 28. SPECIAL PROCEEDINGS:
MISCELLANEOUS CIVIL PROCEEDINGS AND
REMEDIES**

IC 34-28-1

Chapter 1. Birth: Establishing Public Record of Time and Place

IC 34-28-1-1

Application of resident; procedure

Sec. 1. (a) This section applies to a person who is a resident of Indiana.

(b) To establish a public record of the time and place of a person's birth the person must:

(1) have been a bona fide resident, for more than six (6) months, of the county where the application is filed; and

(2) file a verified application and petition in the circuit or superior court of the county.

(c) The circuit court, the superior court, or the judge of the circuit or superior court shall hear and determine the matter set out in the application and petition, without the intervention of a jury.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-2

Application of nonresident; procedure

Sec. 2. (a) This section applies to a person who:

(1) was born in Indiana; and

(2) is not a resident of Indiana at the time of the application.

(b) The person may file a verified application in the circuit or superior court of the county of the person's birth for an order to establish a public record of the time and place of the birth of the applicant.

(c) The court or the judge shall hear and determine the matter set out in the application and petition without the intervention of a jury.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-3

Clerk of court to provide forms for petition

Sec. 3. The clerk of the court shall provide the forms for the petition in the same manner as other forms are provided for by law.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-4

Publication of notice of application; form

Sec. 4. (a) This section applies to any person, resident or nonresident, who has filed an application in any court as provided in this chapter.

(b) Except as provided in subsection (c), the applicant shall give notice of the application by one (1) insertion in a qualified newspaper

of general circulation, printed and published in the county where the application is filed.

(c) If no newspaper is published in the county where the application is filed, the applicant shall give notice in the closest newspaper printed and published in an adjoining county.

(d) The notice must be in the following form:

Birth Certificate

Notice is given that _____ has filed a petition in the _____ Court of _____ County, Indiana, to have the time and place of his (her) birth determined. This petition is set for hearing on the _____ day of _____, _____.

Clerk of the _____ Court.

(e) The notice shall be published at a cost not to exceed one dollar and fifty cents (\$1.50), and if the applicant cannot publish the notice for that amount, notice shall be given by posting the notice at a door of the courthouse. The clerk of the court shall post the notice and file proof of its posting.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-5

Hearing and determination on application

Sec. 5. Upon the filing of proof of notice by publication or posting, as provided in section 4 of this chapter, the court or judge may hear the application and enter a determination of status of the applicant as to time and place of birth.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-6

Jurisdictional requirements; supporting testimony of two freeholders

Sec. 6. Before the court or judge has jurisdiction to determine the application, the applicant must demonstrate:

(1) that at least two (2) freeholders, either of the county of the residence of the applicant or of the county of birth have:

(A) knowledge of the facts stated in the application; or

(B) reason to believe that the facts are true; and

(2) to the satisfaction of the court or the judge that the applicant meets the qualifications provided in this chapter for the filing of the application.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-7

Appearance of applicant; conduct of hearing; finality of determination; rehearing

Sec. 7. (a) The applicant may appear:

(1) in person; and

(2) with or without an attorney.

(b) If the applicant appears without an attorney, the judge shall conduct the hearing of the applicant and the examination of the

witnesses.

(c) The judge may continue the hearing from time to time.

(d) Except as provided in subsection (e), the determination of the court or the judge, after conclusion of the hearing, is final.

(e) Upon petition for sufficient cause, if the court or judge sets aside the former order and assigns the application for rehearing and determination, the determination of the court on rehearing is final.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-8

Copy of court decree as evidence

Sec. 8. A copy of the decree of the court or judge certified under the seal of the clerk of the court is prima facie evidence in any court, board, council, or commission of Indiana to show time and place of birth of the person named in the decree.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-9

Index record; copy of judgment and decree to vital records division

Sec. 9. (a) The clerk of the court shall:

(1) make and keep an index record to be known as the birth certificate record; and

(2) enter the judgment and decree into the proper index of the record.

(b) The clerk shall also send a certified copy of the judgment and decree to the division of vital records, state department of health, Indianapolis, Indiana. The judgment and decree shall be considered to be a delayed certificate of birth under IC 16-37-2.

As added by P.L.1-1998, SEC.24.

IC 34-28-1-10

Collection of fee

Sec. 10. The clerk shall collect the fee provided in IC 33-37-4-4. However, a fee may not be collected if the petitioner is a resident of Indiana.

As added by P.L.1-1998, SEC.24. Amended by P.L.98-2004, SEC.122.

IC 34-28-1-11

Dismissal of application for want of prosecution

Sec. 11. Where the applicant fails to prosecute the cause for one hundred twenty (120) days after filing the application, the court or judge shall dismiss the application for want of prosecution, and the clerk of the circuit court shall destroy the application immediately following the dismissal.

As added by P.L.1-1998, SEC.24.

IC 34-28-2

Chapter 2. Change of Name

IC 34-28-2-1

Petition to circuit court

Sec. 1. Except as provided in section 1.5 of this chapter, the circuit courts in Indiana may change the names of natural persons on application by petition.

As added by P.L.1-1998, SEC.24. Amended by P.L.18-1998, SEC.1.

IC 34-28-2-1.5

Incarcerated persons may not petition for change of name

Sec. 1.5. A person may not petition for a change of name under this chapter if the person is confined to a department of correction facility.

As added by P.L.18-1998, SEC.2.

IC 34-28-2-2

Filing petition; procedure for change of name of minor

Sec. 2. (a) The petition described in section 1 of this chapter must:

- (1) if applicable, include the information required by section 2.5 of this chapter;
- (2) in the case of a petition filed by a person described in section 2.5 of this chapter, be subscribed and sworn to (or affirmed):
 - (A) under the penalties of perjury; and
 - (B) before a notary public or other person authorized to administer oaths; and
- (3) be filed with the circuit court of the county in which the person resides.

(b) In the case of a parent or guardian who wishes to change the name of a minor child, the petition must be verified, and it must state in detail the reason the change is requested. In addition, except where a parent's consent is not required under IC 31-19-9, the written consent of a parent, or the written consent of the guardian if both parents are dead, must be filed with the petition.

(c) Before a minor child's name may be changed, the parents or guardian of the child must be served with a copy of the petition as required by the Indiana trial rules.

As added by P.L.1-1998, SEC.24. Amended by P.L.61-2010, SEC.1.

IC 34-28-2-2.5

Contents of petition

Sec. 2.5. (a) If a person petitioning for a change of name under this chapter is at least seventeen (17) years of age, the person's petition must include at least the following information:

- (1) The person's date of birth.
- (2) The person's current:
 - (A) residence address; and
 - (B) if different than the person's residence address, mailing address.

- (3) The person's valid:
 - (A) Indiana driver's license number; or
 - (B) Indiana identification card (as described in IC 9-24-16) number.
 - (4) A list of all previous names used by the person.
 - (5) Proof that the person is a United States citizen.
 - (6) A statement concerning whether the person holds a valid United States passport.
 - (7) A description of all judgments of criminal conviction of a felony under the laws of any state or the United States that have been entered against the person.
 - (b) A petition under subsection (a) is subject to Indiana Rules of Court Administrative Rule 9.
- As added by P.L.61-2010, SEC.2.*

IC 34-28-2-3

Notice of petition

Sec. 3. (a) Upon filing a petition for a name change, the applicant shall give notice of the petition as follows:

- (1) By three (3) weekly publications in a newspaper of general circulation published in the county in which the petition is filed in court.
- (2) If no newspaper is published in the county in which the petition is filed, the applicant shall give notice in a newspaper published nearest to that county in an adjoining county.
- (3) The last weekly publication shall be published not less than thirty (30) days before the day the petition will be heard as indicated in the notice.

(b) In the case of a petition described in section 2(b) of this chapter, the notice required by this section must include the following:

- (1) The name of the petitioner.
- (2) The name of the minor child whose name is to be changed.
- (3) The new name desired.
- (4) The name of the court in which the action is pending.
- (5) The date on which the petition was filed.
- (6) A statement that any person has the right to appear at the hearing and to file objections.

(c) Except as provided in section 1.5 of this chapter, in the case of a person who has had a felony conviction within ten (10) years before filing a petition for a change of name, at least thirty (30) days before the hearing the petitioner must give notice of the filing of the petition to:

- (1) the sheriff of the county in which the petitioner resides;
- (2) the prosecuting attorney of the county in which the petitioner resides; and
- (3) the Indiana central repository for criminal history information.

(d) The notice given to the Indiana central repository for criminal history information under subsection (c) must include the petitioner's

full current name, requested name change, date of birth, address, physical description, and a full set of classifiable fingerprints.

(e) The Indiana central repository for criminal history information shall forward a copy of any criminal records of the petitioner to the court for the court's information.

(f) A copy of the court decree granting or denying such a petition shall be sent to the Indiana state police.

(g) A person who violates subsection (c) commits a Class A misdemeanor.

As added by P.L.1-1998, SEC.24. Amended by P.L.18-1998, SEC.3; P.L.1-1999, SEC.72; P.L.61-2010, SEC.3.

IC 34-28-2-4

Proof of publication; time of hearing; notice requirements; determination on petition

Sec. 4. (a) Proof of the publication required in this chapter is made by filing a copy of the published notice, verified by the affidavit of a disinterested person, and when proof of publication is made, the court shall, subject to the limitations imposed by subsections (b), (c), and (d), proceed to hear the petition and make an order and decree the court determines is just and reasonable.

(b) In the case of a petition described in section 2(b) of this chapter, the court may not hear the petition and issue a final decree until after thirty (30) days from the later of:

(1) the filing of proof of publication of the notice required under subsection (a); or

(2) the service of the petition upon the parents or guardian of the minor child.

(c) In the case of a petition described in section 2(b) of this chapter, the court shall set a date for a hearing on the petition if:

(1) written objections have been filed; or

(2) either parent or the guardian of the minor child has refused or failed to give written consent as described in section 2(b) of this chapter.

The court shall require that appropriate notice of the hearing be given to the parent or guardian of the minor child or to any person who has filed written objections.

(d) In deciding on a petition to change the name of a minor child, the court shall be guided by the best interest of the child rule under IC 31-17-2-8. However, there is a presumption in favor of a parent of a minor child who:

(1) has been making support payments and fulfilling other duties in accordance with a decree issued under IC 31-15, IC 31-16, or IC 31-17 (or IC 31-1-11.5 before its repeal); and

(2) objects to the proposed name change of the child.

(e) In the case of a person required to give notice under section 3(c) of this chapter, the petitioner must certify to the court that the petitioner has complied with the notice requirements of that subsection.

As added by P.L.1-1998, SEC.24. Amended by P.L.61-2010, SEC.4.

IC 34-28-2-5

Court decree as evidence; copy sent to health department, clerk of circuit court, or board

Sec. 5. (a) A copy of the decree of the court changing the name of any natural person, certified under the seal of the court by the clerk of the court, is sufficient evidence of the name of the person, and of a change having been made, in any court of Indiana.

(b) In the case of a petition described in section 2(b) of this chapter, the court shall send a copy of the final decree to the state department of health and to the local health department of the county.

(c) In the case of a petition filed by a person at least seventeen (17) years of age, the court shall send a copy of the final decree to the clerk of the circuit court or board of registration of the county where the person resides.

As added by P.L.1-1998, SEC.24.

IC 34-28-3

Chapter 3. Partial Emancipation for Minors to Participate in Automobile and Motorcycle Racing

IC 34-28-3-1

Application of chapter

Sec. 1. This chapter applies to a person who wishes to participate in professional automobile or motorcycle racing events.

As added by P.L.1-1998, SEC.24.

IC 34-28-3-2

Petition to court; requirements; terms of emancipation

Sec. 2. (a) This section applies to:

- (1) a circuit or superior court that has jurisdiction in the county in which the minor resides or is employed; or
- (2) if the minor neither resides in nor is employed in Indiana, the circuit or superior court that has jurisdiction in the county in which any party to the contract or release has its principal office in Indiana.

(b) A circuit or superior court described in subsection (a) may partially emancipate a minor under this chapter if the court finds all of the following:

- (1) The minor and the minor's parents, having petitioned the court, appear before the court and agree that the minor should be partially emancipated to be allowed to participate in professional automobile or motorcycle racing events.
- (2) The minor possesses the maturity to understand the hazards and risks involved in participating in automotive or motorcycle racing events.
- (3) The minor and the minor's parents understand what it means for the minor and the minor's parents to be bound by any contracts, releases, or indemnity agreements the minor signs once the minor is partially emancipated under this chapter.
- (4) If the minor intends to drive in a professional automobile or motorcycle racing event, that the minor has five (5) years experience in go-kart, automobile, or motorcycle racing.

(c) Whenever the court partially emancipates a minor under this chapter, the court shall specify the terms of the emancipation, which are limited to any of the following:

- (1) The ability to contract for the purposes of participating in professional automobile and motorcycle racing events.
- (2) The ability to sign liability releases or indemnity agreements required by a sanctioning entity of professional automobile or motorcycle racing events.

As added by P.L.1-1998, SEC.24.

IC 34-28-3-3

Avoiding contract, liability release, or indemnity agreement entered into by partially emancipated minor prohibited

Sec. 3. A minor who has been partially emancipated under this

chapter (or IC 34-4-44.2 before its repeal) may not avoid a contract, a liability release, or an indemnity agreement referred to in a court order issued under this chapter (or IC 34-4-44.2 before its repeal) by alleging that the minor was under a legal disability by reason of the minor's age. No parent of a minor who has been partially emancipated under this chapter (or IC 34-4-44.2 before its repeal) may seek to have a contract, a liability release, or an indemnity agreement signed by the partially emancipated minor as allowed under this chapter set aside by reason of the minor's age at the time the minor entered into the contract, regardless of whether the parent participates in the partial emancipation proceeding or fits the definition of a parent under IC 34-6-2-93.

As added by P.L.1-1998, SEC.24.

IC 34-28-4

Chapter 4. Remedies for Improper Dismissal From Employment Because of Court Attendance

IC 34-28-4-1

Civil action for dismissal from employment

Sec. 1. A person who is dismissed from employment in violation of IC 35-44.1-2-11 may bring a civil action, within ninety (90) days of the dismissal, against the employer who dismissed the person:

(1) to recover the wages the person lost as a result of the dismissal; and

(2) to obtain an order requiring reinstatement by the employer.

If the person obtains a judgment against the employer, the court shall award a reasonable attorney's fee to the person's attorney.

As added by P.L.1-1998, SEC.24. Amended by P.L.126-2012, SEC.43.

IC 34-28-5

Chapter 5. Infraction and Ordinance Violation Enforcement Proceedings

IC 34-28-5-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 34-4-32-1 (before its repeal, now codified at section 1 of this chapter) by P.L.309-1985 do not apply to violations occurring before April 9, 1985.

As added by P.L.220-2011, SEC.562.

IC 34-28-5-1

Prosecution in name of state or municipality; rules; limitations; burden of proof; deferral programs; agreement for community restitution or service

Sec. 1. (a) As used in this section, "probationary license" refers to a license described in IC 9-24-11-3.3(b).

(b) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(c) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(d) Actions under this chapter (or IC 34-4-32 before its repeal):

- (1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and
- (2) must be brought within two (2) years after the alleged conduct or violation occurred.

(e) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(f) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(g) Subsection (h) does not apply to an individual holding a probationary license who is alleged to have committed an infraction under any of the following when the individual was less than eighteen (18) years of age at the time of the alleged offense:

IC 9-19

IC 9-21

IC 9-24

IC 9-25

IC 9-26

IC 9-30-5

IC 9-30-10

IC 9-30-15.

(h) This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle. The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

- (1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;
- (2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);
- (3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;
- (4) the defendant in the action agrees to pay a fee of seventy dollars (\$70) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110);
- (5) the agreement is filed in the court in which the action is brought; and
- (6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

(i) If a judgment is entered against a defendant in an action to enforce an ordinance, the defendant may perform community restitution or service (as defined in IC 35-31.5-2-50) instead of paying a monetary judgment for the ordinance violation as described in section 4(e) of this chapter if:

- (1) the:
 - (A) defendant; and
 - (B) attorney for the municipal corporation;agree to the defendant's performance of community restitution or service instead of the payment of a monetary judgment;
- (2) the terms of the agreement described in subdivision (1):
 - (A) include the amount of the judgment the municipal corporation requests that the defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the

- court; and
- (B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;
- (3) the agreement is filed in the court where the judgment was entered; and
- (4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection.

As added by P.L.1-1998, SEC.24. Amended by P.L.98-2000, SEC.12; P.L.98-2004, SEC.123; P.L.176-2005, SEC.24; P.L.200-2005, SEC.1; P.L.101-2009, SEC.17; P.L.114-2012, SEC.65; P.L.125-2012, SEC.412.

IC 34-28-5-2

Moving traffic violation; pleadings

Sec. 2. In an action for a moving traffic violation, the pleadings are as follows:

- (1) A summons and complaint.
- (2) Entry by a defendant of:
 - (A) an admission to the violation;
 - (B) a denial of the violation; or
 - (C) a declaration of nolo contendere in which the defendant consents to entry of judgment for the state without admitting to the violation.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-3

Detention; communications device information

Sec. 3. (a) Whenever a law enforcement officer believes in good faith that a person has committed an infraction or ordinance violation, the law enforcement officer may detain that person for a time sufficient to:

- (1) inform the person of the allegation;
- (2) obtain the person's:
 - (A) name, address, and date of birth; or
 - (B) driver's license, if in the person's possession; and
- (3) allow the person to execute a notice to appear.

(b) If a law enforcement officer detains a person because the law enforcement officer believes the person has committed an infraction or ordinance violation, the law enforcement officer may not, without the consent of the person, extract or otherwise download information from a cellular telephone or another wireless or cellular communications device possessed by the person at the time the person is detained unless:

- (1) the law enforcement officer has probable cause to believe that the:
 - (A) cellular telephone; or

- (B) other wireless or cellular communications device;
has been used in the commission of a crime;
- (2) the information is extracted or otherwise downloaded under
a valid search warrant; or
- (3) otherwise authorized by law.

As added by P.L.1-1998, SEC.24. Amended by P.L.191-2014, SEC.2.

IC 34-28-5-3.5

Refusal to identify self

Sec. 3.5. A person who knowingly or intentionally refuses to provide either the person's:

- (1) name, address, and date of birth; or
- (2) driver's license, if in the person's possession;

to a law enforcement officer who has stopped the person for an infraction or ordinance violation commits a Class C misdemeanor.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-4

Costs; deposit of funds; findings required for judgment; special provisions for moving violations

Revisor's Note: P.L.106-2010, SEC.18, required this section to be printed as follows.

Sec. 4. (a) A judgment of up to ten thousand dollars (\$10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars (\$1,000) may be entered for a violation constituting a Class B infraction.

(c) Except as provided in subsection (f), a judgment of up to five hundred dollars (\$500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars (\$25) may be entered for a violation constituting a Class D infraction.

(e) Subject to section 1(i) of this chapter, a judgment:

- (1) up to the amount requested in the complaint; and
- (2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

(f) Except as provided in subsections (g) and (h), a person who has admitted to a moving violation constituting a Class C infraction, pleaded nolo contendere to a moving violation constituting a Class C infraction, or has been found by a court to have committed a moving violation constituting a Class C infraction may not be required to pay more than the following amounts for the violation:

- (1) If, before the appearance date specified in the summons and complaint, the person mails or delivers an admission of the moving violation or a plea of nolo contendere to the moving violation, the person may not be required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50).

- (2) If the person admits the moving violation or enters a plea of nolo contendere to the moving violation on the appearance date specified in the summons and complaint, the person may not be

required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50).

(3) If the person contests the moving violation in court and is found to have committed the moving violation, the person may not be required to pay any amount, except:

(A) court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was not found by a court in the county to have committed a moving violation;

(B) court costs and a judgment that does not exceed two hundred fifty dollars and fifty cents (\$250.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed one (1) moving violation; and

(C) court costs and a judgment that does not exceed five hundred dollars (\$500) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed two (2) or more moving violations.

In a proceeding under subdivision (3), the court may require the person to submit an affidavit or sworn testimony concerning whether, in the five (5) years before the appearance date specified in the summons and complaint, the person has been found by a court to have committed one (1) or more moving violations.

(g) The amounts described in subsection (f) are in addition to any amount that a person may be required to pay for attending a defensive driving school program.

(h) This subsection applies only to infraction judgments imposed in Marion County for traffic violations after December 31, 2010. Subsection (f) applies to an infraction judgment described in this subsection. However, a court shall impose a judgment of not less than thirty-five dollars (\$35) for an infraction judgment that is entered in Marion County. These funds shall be transferred to a dedicated fund in accordance with section 5 of this chapter.

As added by P.L.1-1998, SEC.24. Amended by P.L.200-2005, SEC.2; P.L.101-2009, SEC.18; P.L.71-2010, SEC.3; P.L.106-2010, SEC.7.

IC 34-28-5-5

Costs; deposit of funds; findings required for judgment

Sec. 5. (a) A defendant against whom a judgment is entered is liable for costs. Costs are part of the judgment and may not be suspended except under IC 9-30-3-12. Whenever a judgment is entered against a person for the commission of two (2) or more civil violations (infractions or ordinance violations), the court may waive the person's liability for costs for all but one (1) of the violations. This subsection does not apply to judgments entered for violations constituting:

(1) Class D infractions; or

(2) Class C infractions for unlawfully parking in a space

reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8.

(b) If a judgment is entered:

(1) for a violation constituting:

(A) a Class D infraction; or

(B) a Class C infraction for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8; or

(2) in favor of the defendant in any case;

the defendant is not liable for costs.

(c) Except for costs, and except as provided in subsection (e) and IC 9-21-5-11(e), the funds collected as judgments for violations of statutes defining infractions shall be deposited in the state general fund.

(d) A judgment may be entered against a defendant under this section or section 4 of this chapter upon a finding by the court that the defendant:

(1) violated:

(A) a statute defining an infraction; or

(B) an ordinance; or

(2) consents to entry of judgment for the plaintiff upon a pleading of nolo contendere for a moving traffic violation.

(e) The funds collected for an infraction judgment described in section 4(h) of this chapter shall be transferred to a dedicated county fund. The money in the dedicated county fund does not revert to the county general fund or state general fund and may be used, after appropriation by the county fiscal body, only for the following purposes:

(1) To pay compensation of commissioners appointed under IC 33-33-49.

(2) To pay costs of the county's guardian ad litem program.

As added by P.L.1-1998, SEC.24. Amended by P.L.40-2007, SEC.7; P.L.71-2010, SEC.4; P.L.106-2010, SEC.8.

IC 34-28-5-6

Suspension of driver's license

Sec. 6. If a defendant fails to satisfy a judgment entered against the defendant for the violation of a traffic ordinance or for a traffic infraction by a date fixed by the court, the court may suspend the defendant's drivers license. When a court suspends a person's drivers license under this section, the court shall forward notice of the suspension to the bureau of motor vehicles.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-7

Traffic violations bureau; clerk

Sec. 7. Any court may establish a traffic violations bureau and appoint a violations clerk who shall serve under the direction and control of the court.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-8

Duties of clerk

Sec. 8. The violations clerk or deputy violations clerk shall:

- (1) accept:
 - (A) written appearances;
 - (B) waivers of trial;
 - (C) admissions of violation;
 - (D) declarations of nolo contendere for moving traffic violations;
 - (E) payments of judgments (including costs) in traffic violation cases;
 - (F) deferral agreements made under section 1(f) of this chapter (or IC 34-4-32-1(f) before its repeal) and deferral program fees prescribed under IC 33-37-4-2(e); and
 - (G) community restitution or service agreements made under section 1(g) of this chapter;
- (2) issue receipts and account for any judgments (including costs) collected; and
- (3) pay the judgments (including costs) collected to the appropriate unit of government as provided by law.

As added by P.L.1-1998, SEC.24. Amended by P.L.98-2004, SEC.124; P.L.200-2005, SEC.3.

IC 34-28-5-9

Duties of court

Sec. 9. The court shall:

- (1) designate the traffic violations within the authority of the violations clerk, but these violations may not include misdemeanors or felonies;
- (2) establish schedules, within limits prescribed by law, of the judgments to be imposed for first violations, designating each violation specifically;
- (3) order that the schedule of judgments be prominently posted in the place where the fines are paid;
- (4) establish a procedure under which any violations clerk or deputy violations clerk shall accept, receipt, and account for all money tendered for designated traffic violations; and
- (5) dismiss deferred actions if a dismissal request is made under section 1(f) of this chapter (or IC 34-4-32-1(f) before its repeal).

As added by P.L.1-1998, SEC.24.

IC 34-28-5-10

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 34-28-5-11

Admission of violation; nolo contendere plea; payment of judgment

Sec. 11. Any person charged with a traffic violation that is within the authority of the violations clerk may mail or deliver:

- (1) the amount of the judgment (including costs) indicated on

the ticket; and

(2) a signed:

(A) admission of the violation; or

(B) pleading of nolo contendere, if the action is for a moving traffic violation.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-12

Notice requirements for acceptance of admission or nolo contendere plea

Sec. 12. Before accepting a pleading admitting to a violation or entering a declaration of nolo contendere to a violation, the violations clerk or the officer writing the ticket shall inform the person that:

(1) the person's signature to:

(A) an admission of the violation; or

(B) a pleading of nolo contendere;

will have the same effect as a judgment of a court; and

(2) the record of judgment will be sent to the commissioner of motor vehicles of Indiana or the state where the person received a license to drive.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-13

Payment by credit card

Sec. 13. A court may permit a person to use a credit card issued by a financial institution for the purpose of paying a court cost and judgment with respect to a traffic violation that is enforced under this chapter. The state board of accounts shall allow a county to pay any applicable credit card service charge on behalf of a court that permits the use of a credit card under this section. The county fiscal body must appropriate funds to cover the costs of applicable credit card service charges before a court may permit the use of a credit card under this section.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-14

Written appearance instead of personal appearance before court

Sec. 14. If a person named as a defendant in a summons and complaint issued under IC 5-16-9-10, before the appearance date specified in the summons and complaint, mails or delivers the following to the court having jurisdiction over the action:

(1) an admission of the violation or a plea of nolo contendere to the violation; and

(2) a fifty dollar (\$50) civil judgment;

the court shall enter a judgment against the defendant for the violation. An admission or plea of nolo contendere received by the court under this section (or IC 34-4-32-6 before its repeal) constitutes a written appearance and the defendant is not required to personally appear before the court.

As added by P.L.1-1998, SEC.24.

IC 34-28-5-15

Disclosure of information related to an infraction; restrictions; petition to restrict disclosure

Sec. 15. (a) This subsection does not apply to a person whose prosecution for an infraction is deferred under section 1 of this chapter. If a person alleged to have violated a statute defining an infraction:

- (1) is not prosecuted or if the action against the person is dismissed;
- (2) is adjudged not to have committed the infraction; or
- (3) is adjudged to have committed the infraction and the adjudication is subsequently vacated;

the court in which the action was filed shall order the clerk and the operator of any state, regional, or local case management system not to disclose or permit disclosure of information related to the infraction to a noncriminal justice organization or an individual.

(b) Not earlier than five (5) years after a person:

- (1) whose prosecution for an infraction has been deferred; or
- (2) who was found to have violated a statute defining an infraction;

has satisfied the conditions of the deferral program or the judgment imposed for the violation, the person may petition the court to prohibit disclosure of information related to the infraction to a noncriminal justice organization or an individual. The court shall order the clerk and the operator of any state, regional, or local case management system not to disclose or permit disclosure of information related to the infraction to a noncriminal justice organization or an individual if the court finds that:

- (1) the person satisfied the judgment or conditions of the deferral program; and
- (2) at least five (5) years have passed since the date the person satisfied the judgment or conditions of the program.

(c) If a court fails to order the clerk and the operator of any state, regional, or local case management system to restrict disclosure of information related to the infraction under subsection (a), the person may petition the court to restrict disclosure of the records related to the infraction to a noncriminal justice organization or an individual.

(d) A petition under subsection (b) or (c) must be verified and filed in:

- (1) the court in which the action was filed, for a person described in subsection (a)(1);
- (2) the court in which the trial was held, for a person described in subsection (a)(2) or (a)(3); or
- (3) the court finding or having jurisdiction over the violation, for a person described in subsection (b).

(e) A petition under subsection (b) or (c) must be filed not earlier than:

- (1) if the person is adjudged not to have committed the infraction, thirty (30) days after the date of judgment;
- (2) if the person's adjudication is vacated, three hundred

sixty-five (365) days after:

(A) the order vacating the adjudication is final, if there is no appeal or the appeal is terminated before entry of an opinion or memorandum decision; or

(B) the opinion or memorandum decision vacating the adjudication is certified;

(3) if the person is not prosecuted or the action is dismissed, thirty (30) days after the action is dismissed, if a new action is not filed; or

(4) if the person participated in a deferral program or is found to have violated the statute defining the infraction, not earlier than five (5) years after the date the judgment for the violation is satisfied or the conditions of the deferral program are met.

(f) A petition under subsection (b) or (c) must set forth:

(1) the date of the alleged violation;

(2) the violation or alleged violation;

(3) the date the action was dismissed, if applicable;

(4) the date of judgment, if applicable;

(5) the date the adjudication was vacated, if applicable;

(6) the basis on which the adjudication was vacated, if applicable;

(7) the date the judgment is satisfied or the conditions of the deferral program were met, if applicable;

(8) the law enforcement agency employing the officer who issued the complaint, if applicable;

(9) any other known identifying information, such as the name of the officer, case number, or court cause number;

(10) the date of the petitioner's birth; and

(11) at the option of the petitioner, the:

(A) petitioner's driver's license or state identification card number; or

(B) last four (4) digits of the petitioner's Social Security number.

(g) A copy of a petition filed under subsection (b) or (c) shall be served on the prosecuting attorney.

(h) If the prosecuting attorney wishes to oppose a petition filed under subsection (b) or (c), the prosecuting attorney shall, not later than thirty (30) days after the petition is filed, file a notice of opposition with the court setting forth reasons for opposing the petition. The prosecuting attorney shall attach to the notice of opposition a certified copy of any documentary evidence showing that the petitioner is not entitled to relief. A copy of the notice of opposition and copies of any documentary evidence shall be served on the petitioner in accordance with the Indiana Rules of Trial Procedure.

(i) The court may, with respect to a petition filed under subsection (b) or (c):

(1) summarily grant the petition;

(2) set the matter for hearing; or

(3) summarily deny the petition, if the court determines that:

- (A) the petition is insufficient; or
- (B) based on documentary evidence submitted to the court, the petitioner is not entitled to have access to the petitioner's records restricted.

(j) If a notice of opposition is filed under subsection (h) and the court does not summarily grant or summarily deny the petition, the court shall set the matter for a hearing.

(k) After a hearing is held under subsection (j), the court shall grant the petition filed under:

- (1) subsection (b) if the person is entitled to relief under that subsection; or
- (2) subsection (c) if the person is entitled to relief under subsection (a).

(l) If the court grants a petition filed under subsection (b) or (c), the court shall order the clerk and the operator of any state, regional, or local case management system not to disclose or permit disclosure of information related to the infraction to a noncriminal justice organization or an individual.

As added by P.L. 69-2012, SEC.2. Amended by P.L. 13-2013, SEC.83; P.L. 112-2013, SEC.7.

IC 34-28-5-16

Repealed

(Repealed by P.L. 112-2013, SEC.8; P.L. 205-2013, SEC.356.)

IC 34-28-6

Chapter 6. Security Deposit Posted by a Nonresident Alleged to Have Violated Certain Statutes

IC 34-28-6-1

Arrest of nonresidents; recreational vehicle or hunting and fishing violations; release upon deposit of security

Sec. 1. Whenever a person who is not a resident of Indiana:

(1) is arrested or stopped for a misdemeanor violation or infraction under:

(A) IC 9-31-3;

(B) IC 14-15-2 through IC 14-15-7;

(C) IC 14-16-1; or

(D) IC 14-22; and

(2) is not immediately taken to court;

the person may, at the discretion of the officer, be released upon the deposit of a security. The security shall be the amount of the fine or judgment and costs for the violation in the form of cash, money order, or a traveler's check made payable to the clerk of the court in which the person will appear.

As added by P.L.1-1998, SEC.24. Amended by P.L.1-2010, SEC.137.

IC 34-28-6-2

List of security deposits; agreement as receipt

Sec. 2. A court having jurisdiction shall provide a list of security deposits, which shall be equal to the fine or judgment and costs of the offense, and a security deposit agreement to serve as a receipt for the deposit. A nonresident person who does not choose to deposit a security shall be processed as directed by a court having jurisdiction.

As added by P.L.1-1998, SEC.24.

IC 34-28-6-3

Requisites of agreement and notice to appear

Sec. 3. The agreement for security deposit and the written promise or notice to appear in court must contain a citation of the violation, the name and address of the nonresident person accused of committing the violation, and the time and place the person must appear in court.

As added by P.L.1-1998, SEC.24.

IC 34-28-6-4

Time and place of appearing; informing defendant of consequences of guilty plea or agreed judgment

Sec. 4. The time specified for appearance must be at least five (5) days after the arrest or stop unless the person demands an earlier arraignment. The place specified for appearance must be in a court having jurisdiction within the county where the person was arrested or given notice to appear. The person shall be properly informed of the consequences of a guilty plea or agreed judgment.

As added by P.L.1-1998, SEC.24.

IC 34-28-6-5**Agreement; consequences of failure to appear; return of security upon appearance**

Sec. 5. The agreement for the security must also contain a provision whereby the nonresident person agrees that the court shall take permanent possession of the deposit, and if the person fails to appear in court or is not represented in court, a guilty finding or an adverse judgment will be entered on the court's record in behalf of the person. Upon proper appearance or representation, the security shall be returned to the person.

As added by P.L.1-1998, SEC.24.

IC 34-28-6-6**Compliance with agreement**

Sec. 6. A nonresident person must, by the date required on the security deposit agreement, appear in court, be represented in court, or deliver to the court by mail or courier the amount of the fine or judgment and costs prescribed for the violation.

As added by P.L.1-1998, SEC.24.

IC 34-28-6-7**Procedure; requisites; failure to appear; forfeiture**

Sec. 7. A nonresident person who requests to deposit a security in the amount of the fine or judgment and costs shall, in the presence of the officer, place the amount of the fine or judgment and costs and one (1) signed copy of the security deposit agreement into a stamped, addressed envelope, which the court having jurisdiction shall supply to the officer for the person. The person shall then be released and given a copy of the security deposit agreement. The officer shall mail or deliver the stamped, self-addressed envelope to the court having jurisdiction. If the person does not appear in court or is not represented in court at the time and date specified on the receipt, the court shall:

- (1) enter a guilty finding or judgment against the person; and
- (2) use the security deposit to satisfy the amount of the fine or judgment and costs prescribed for the violation.

As added by P.L.1-1998, SEC.24.

IC 34-28-7

Chapter 7. Possession of Firearms and Ammunition in Locked Vehicles

IC 34-28-7-1

Application

Sec. 1. This chapter applies only to possession of a firearm or ammunition by an individual who may possess the firearm or ammunition legally. This chapter does not apply to the possession of a firearm, ammunition, or other device for which an individual must possess a valid federal firearms license issued under 18 U.S.C. 923 to possess the firearm, ammunition, or other device.

As added by P.L.90-2010, SEC.7.

IC 34-28-7-2

Regulation of employees' firearms and ammunition by employers

Sec. 2. (a) Notwithstanding any other law and except as provided in subsection (b), a person may not adopt or enforce an ordinance, a resolution, a policy, or a rule that:

- (1) prohibits; or
- (2) has the effect of prohibiting;

an employee of the person, including a contract employee, from possessing a firearm or ammunition that is locked in the trunk of the employee's vehicle, kept in the glove compartment of the employee's locked vehicle, or stored out of plain sight in the employee's locked vehicle.

(b) Subsection (a) does not prohibit the adoption or enforcement of an ordinance, a resolution, a policy, or a rule that prohibits or has the effect of prohibiting an employee of the person, including a contract employee, from possessing a firearm or ammunition:

- (1) on the property of:
 - (A) a child caring institution;
 - (B) an emergency shelter care child caring institution;
 - (C) a private secure facility;
 - (D) a group home;
 - (E) an emergency shelter care group home; or
 - (F) a child care center;

in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465 IAC 2-11-80, 465 IAC 2-12-78, 465 IAC 2-13-77, or 470 IAC 3-4.7-19;

- (2) on the property of a penal facility (as defined in IC 35-31.5-2-232);
- (3) in violation of federal law;
- (4) in or on property belonging to an approved postsecondary educational institution (as defined in IC 21-7-13-6(b));
- (5) on the property of a domestic violence shelter;
- (6) at the employer's residence;
- (7) on the property of a person that is:
 - (A) subject to the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards issued

- April 9, 2007; and
- (B) licensed by the United States Nuclear Regulatory Commission under Title 10 of the Code of Federal Regulations;
- (8) on property owned by:
 - (A) a public utility (as defined in IC 8-1-2-1) that generates and transmits electric power; or
 - (B) a department of public utilities created under IC 8-1-11.1; or
- (9) in the employee's personal vehicle if the employee, including a contract employee, is a direct support professional who:
 - (A) works directly with individuals with developmental disabilities to assist the individuals to become integrated into the individuals' community or least restrictive environment; and
 - (B) uses the employee's personal vehicle while transporting an individual with developmental disabilities.

As added by P.L.90-2010, SEC.7. Amended by P.L.114-2012, SEC.66; P.L.157-2014, SEC.1.

IC 34-28-7-3

Civil actions

Sec. 3. (a) An individual who believes that the individual has been harmed by a violation of section 2 of this chapter may bring a civil action against the person who is alleged to have violated section 2 of this chapter, other than a person set forth in IC 34-6-2-103(j)(2).

(b) If a person is found by a court, in an action brought under subsection (a), to have violated section 2 of this chapter, the court may do the following:

- (1) Award:
 - (A) actual damages; and
 - (B) court costs and attorney's fees;to the prevailing individual.
- (2) Enjoin further violations of this chapter.

As added by P.L.90-2010, SEC.7.

IC 34-28-7-4

Other rights and remedies

Sec. 4. This chapter does not limit a person's rights or remedies under any other state or federal law.

As added by P.L.90-2010, SEC.7.

IC 34-28-7-5

Jurisdiction over action against employer

Sec. 5. A court does not have jurisdiction over an action brought against an employer who is in compliance with section 2 of this chapter for any injury or damage resulting from the employer's compliance with section 2 of this chapter.

As added by P.L.90-2010, SEC.7.

IC 34-28-8

Chapter 8. Disclosure of Firearm or Ammunition Information as a Condition of Employment

IC 34-28-8-1

"Firearm"

Sec. 1. As used in this chapter, "firearm" has the meaning set forth in IC 35-47-1-5.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-2

"Political subdivision"

Sec. 2. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-3

"Private employer"

Sec. 3. As used in this chapter, "private employer" means:

- (1) an individual;
- (2) a partnership;
- (3) a firm;
- (4) an association;
- (5) a corporation; or
- (6) a nonprofit organization;

that employs or offers to employ one (1) or more individuals in Indiana.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-4

"Public employer"

Sec. 4. As used in this chapter, "public employer" means:

- (1) the state; or
- (2) a political subdivision;

including, but not limited to, a department, agency, board, commission, institution, authority, or instrumentality of the state or a political subdivision.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-5

"Public official"

Sec. 5. As used in this chapter, "public official" means an elected or appointed official in the executive, legislative, or judicial branch of the state or a political subdivision, as well as an individual acting on behalf of a public employer, whether temporarily or permanently, including but not limited to, members of boards, committees, commissions, authorities, and other instrumentalities of the state or a political subdivision.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-6**Disclosure of firearm or ammunition information to employer or potential employer**

Sec. 6. A public or private employer doing business in Indiana may not:

- (1) require an applicant for employment or an employee to disclose information about whether the applicant or employee owns, possesses, uses, or transports a firearm or ammunition, unless the disclosure concerns the possession, use, or transportation of a firearm or ammunition that is used in fulfilling the duties of the employment of the individual; or
- (2) condition employment, or any rights, benefits, privileges, or opportunities offered by the employment, upon an agreement that the applicant for employment or the employee forego the:
 - (A) rights of the applicant or employee under this chapter; or
 - (B) otherwise lawful:
 - (i) ownership;
 - (ii) possession;
 - (iii) storage;
 - (iv) transportation; or
 - (v) use;of a firearm or ammunition.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-7**Civil action by employee or potential employee authorized when required to divulge firearm or ammunition information**

Sec. 7. (a) An individual aggrieved by what the individual believes is a violation of section 6 of this chapter may bring a civil action in a court with jurisdiction against a public or private employer or a public official that is alleged to have violated section 6 of this chapter.

(b) If a person is found by a court in an action brought under subsection (a) to have violated section 6 of this chapter, the court may do the following:

- (1) Award:
 - (A) actual damages;
 - (B) court costs and attorney's fees; and
 - (C) in the case of a knowing and willful violation, exemplary or punitive damages;to the prevailing plaintiff.
- (2) Enjoin further violations of this chapter.

As added by P.L.17-2011, SEC.2.

IC 34-28-8-8**Tort claim exception; when not allowed**

Sec. 8. IC 34-13-3 does not apply whenever:

- (1) a public employer or public official is sued for civil damages; and
- (2) the civil action arises out of a violation of section 6 of this

chapter.
As added by P.L.17-2011, SEC.2.

IC 34-28-8-9

Regulation or prohibition of firearm possession or carrying a firearm by employee; when authorized

Sec. 9. Notwithstanding section 6 of this chapter, this chapter does not prohibit a public or private employer from:

- (1) regulating or prohibiting the possession or carrying of a firearm by an employee during and in the course of the duties of the employee on behalf of the employer or while on the property of the employer; or
- (2) enforcing a regulation or prohibition adopted under subdivision (1).

However, a regulation or prohibition adopted under subdivision (1) may not apply to a firearm stored or transported in accordance with IC 34-28-7.

As added by P.L.17-2011, SEC.2.

IC 34-28-8.2

Chapter 8.2. Offenses Related to Consular Identification

IC 34-28-8.2-1

"Consular identification"

Sec. 1. As used in this chapter, "consular identification" means an identification, other than a passport, issued by the government of a foreign state for the purpose of providing consular services in the United States to a national of the foreign state.

As added by P.L.171-2011, SEC.18.

IC 34-28-8.2-2

Regulation of offering, accepting, or recording consular identification

Sec. 2. (a) This section does not apply to a law enforcement officer who is presented with a consular identification during the investigation of a crime.

(b) Except as otherwise provided under federal law, a person who knowingly or intentionally offers, accepts, or records a consular identification as a valid form of identification for any purpose commits a Class C infraction. However, the person commits:

- (1) a Class B infraction for a second offense; and
- (2) a Class A infraction for a third or subsequent offense.

As added by P.L.171-2011, SEC.18.

IC 34-28-9.2

Chapter 9.2. Assignment of Lottery Prizes

IC 34-28-9.2-1

Petitions to approve prize payments

Sec. 1. (a) As set forth in IC 4-30-11-2.5, a person who has won a prize from the state lottery commission created under IC 4-30-3 may file a verified petition with the Marion circuit court to approve the assignment of a prize payment or payments.

(b) A verified petition filed under this section must include:

- (1) statements that the person understands:
 - (A) the assignment of the prize payment or payments is voluntary; and
 - (B) their right to solicit multiple bids for their prize payments;
- (2) a statement explaining to whom the prize payment or payments would be assigned;
- (3) a statement that the person is of sound mind, is in full command of the person's faculties, and is not acting under duress;
- (4) a statement detailing that the person has had the opportunity to receive or has received legal, financial, and tax advice from a person or entity other than the person or entity that would be assigned the prize payment or payments;
- (5) a statement that the person understands that the person will not receive the future payment or payments of the prize after a prize payment or prize payments are assigned;
- (6) a statement that the person understands that, with regard to the assigned payments of the prize, the state lottery commission and its employees are not liable to make any future payments to the person that are subject to an assignment made under IC 4-30-11-2.5;
- (7) a statement that the person understands that the person may cancel the contract assigning the person's prize payment or payments within three (3) business days after the date the contract assigning the prize payment or payments is signed;
- (8) details of the proposed assignment, including:
 - (A) the amount of the prize payments assigned;
 - (B) the dates the prize payments are assigned;
 - (C) the purchase price of the prize payments assigned;
 - (D) the rate of discount to present value, assuming daily compounding and funding on the contract date; and
 - (E) the amount, if any, of any origination or closing fees charged to the person;
- (9) a statement detailing whether the person:
 - (A) owes child support;
 - (B) owes money as part of a judgment or garnishment;
 - (C) has not satisfied an order for criminal restitution; or
 - (D) owes any debt to an Indiana state agency that has provided written notice to the person regarding the debt;

(10) a sworn affirmation that the contents of the petition are true; and

(11) a statement that the person has had an adequate opportunity to receive multiple bids to assign their prize payment or payments.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-2

Petitioners with child support obligations

Sec. 2. If a petition filed under section 1 of this chapter indicates that the petitioner has one (1) or more current child support obligations and the Title IV-D agency has entered an appearance:

(1) the court shall consider ordering the petitioner to secure a bond under IC 31-16-3.5 for the purpose of insuring the future payment of child support obligations; and

(2) if the purchase price of the payments assigned under section (1)(b)(8) is insufficient to secure a child support bond, then the court shall consider denying the petition.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-3

Court orders approving prize payment assignments

Sec. 3. If a court finds that a prize payment or payments from the state lottery commission may be assigned based on a petition filed under section 1 of this chapter and IC 4-30-11-2.5, the court shall issue an order approving the prize payment assignment. The order must include a statement that the petitioner:

(1) has filed a verified petition under section 1 of this chapter;

(2) understands:

(A) the assignment of the prize payment or payments is voluntary;

(B) to whom the prize payment or payments will be assigned;

(C) the person will not receive future payments that are subject to an assignment made under IC 4-30-11-2.5;

(D) the state lottery commission and its employees are not liable to make any prize payments to the person that are assigned to another individual or entity under IC 4-30-11-2.5; and

(E) that the person may cancel the contract assigning the person's prize payment or payments within three (3) business days after the date the contract assigning the prize payment or payments is signed;

(3) is of sound mind, is in full command of the person's faculties, and is not acting under duress;

(4) has received or has had the opportunity to receive legal, financial, and tax advice from a person or entity other than the person or entity that would be assigned the prize payment or payments;

(5) has no debts to state agencies or has satisfied all past debts

to state agencies; and

(6) has received, prior to signing the contract assigning the prize payment or payments, a written disclosure statement, on a separate piece of paper, in bold type with a font at least fourteen (14) points, stating the details of the proposed assignment, including:

- (A) the amount of the prize payment or payments assigned;
- (B) the dates of the prize payment or payments assigned;
- (C) the purchase price of the prize payment or payments assigned;
- (D) the rate of discount to present value, assuming daily compounding and funding on the contract date; and
- (E) the amount, if any, of any origination or closing fees charged to the person.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-4

Service of petitions

Sec. 4. A person filing a petition under this chapter shall serve a copy of the petition on the state lottery commission's director and the child support bureau established by IC 31-25-3-1.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-5

Notification of hearings

Sec. 5. If a court schedules a hearing on a petition filed under this chapter, the court shall notify the state lottery commission's director, the child support bureau established by IC 31-25-3-1, and the petitioner at least twenty (20) days before the hearing date.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-6

Response to petitions

Sec. 6. (a) The state lottery commission and the child support bureau established by IC 31-25-3-1 are not required to respond to a petition filed under this chapter.

(b) The state lottery commission and the child support bureau established by IC 31-25-3-1 may file a response to a petition filed under this chapter and may participate in any hearings, if any, on petitions filed under this chapter.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-7

Copies of court orders approving a prize payment assignment

Sec. 7. If a court approves a prize payment assignment under this chapter, the court shall provide a copy of the order to the state lottery commission within twenty (20) days of the order being entered and at least thirty (30) days before the first assigned payment is to be made to the assignee.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-8**Required information for prize payments**

Sec. 8. The person to whom a prize payment or payments from the state lottery commission is assigned must provide the information that the state lottery commission determines is necessary to make the assignment of the prize payment or payments, including the person's correct name, the person's appropriate address, and the necessary tax identification numbers and information.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-9**Declarations that the voluntary assignment of a prize affects federal income tax**

Sec. 9. (a) If the Internal Revenue Service or a court issues a determination letter, revenue ruling, other public ruling of the Internal Revenue Service, or a published decision to the commission or any lottery winner, declaring that the voluntary assignment of prizes will affect the federal income tax treatment of a prize winner who does not assign the winner's prize payment or payments, the state lottery commission shall file a copy of the letter, ruling, or decision with the attorney general's office and the Indiana judicial center. A court may not issue an order authorizing a voluntary assignment of a prize after the date the ruling, letter, or published decision is filed.

(b) If a determination letter, revenue ruling, other public ruling, or published decision is issued under subsection (a), the Internal Revenue Service or the court that issued the document shall send a certified copy of the document to the director of the commission.

As added by P.L.198-2014, SEC.6.

IC 34-28-9.2-10**Declarations that the voluntary assignment of a prize affects state income tax**

Sec. 10. If the department of state revenue issues a determination, ruling, or finding to the commission or any lottery winner declaring that the voluntary assignment of a prize will reduce the state income tax due on the prize, the department of state revenue shall file the determination, ruling, or finding with the lottery commission, the attorney general's office, and the Indiana judicial center. A court may not issue an order authorizing a voluntary assignment of a prize after the date the determination, ruling, or finding is filed.

As added by P.L.198-2014, SEC.6.